

TAM:GMT:mel:2002V00410

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MANUEL RAMOS,	:	
	:	
Plaintiff	:	CIVIL NO. 1:CV-00-1957
v.	:	
	:	(Jones, J.)
MARGARET HARDEN, DR. MIGLORI,	:	(Smyser, M.J.)
DR. MAXIMO R. VELASCO, JR.,	:	
DR. ANTHONY BUSSANICH, and	:	
DR. PETER J. TERIHAAR,	:	
	:	FILED ELECTRONICALLY
Defendants	:	

STATEMENT OF FACTS

Facts Regarding Exhaustion of the Bivens Claim

1. The Bureau of Prisons has established an administrative remedy procedure whereby an inmate can seek formal review of any aspect of his confinement. 28 C.F.R. § 542.10; Exh. 1 (Cunningham Decl.), ¶ 2.

2. This procedure ordinarily requires that an inmate first file his complaint at the institution with the Warden. If the inmate is dissatisfied with the Warden's response, the inmate may appeal to the appropriate Regional Office within twenty calendar days of the Warden's response. If dissatisfied with the Regional Office's response, the inmate may appeal to the Office of the General Counsel in Washington, D.C., within thirty calendar days

of the signed Regional Director's response. 28 C.F.R.

§ 542.15(a); Exh. 1, ¶ 2.

3. An appeal to the General Counsel is considered the final administrative appeal in the Bureau of Prisons' Administrative Remedy Program. Id.

4. A review of Ramos' administrative remedy log reveals that he has successfully filed twenty-two administrative remedies on a variety of issues while incarcerated with the Bureau of Prisons. Exh. 1, ¶¶ 3-4; pp. 4-15 (Administrative Remedy Generalized Retrieval).

5. He has successfully filed requests for administrative remedy while confined at FCI Fort Dix, New Jersey, FCI Allenwood, USP Allenwood, USP Lewisburg, USP Lompoc, California, and USP Florence, Colorado. Exh. 1, ¶ 5; pp. 4-15.

6. Nineteen of the administrative remedy requests were filed since alleging he injured his thumb in March 1997; however, none of these concerned any use of force allegations which injured his right thumb or the subsequent medical treatment of his right thumb. Exh. 1, ¶¶ 3-5; pp. 4-15.

7. Inmates may request blank copies of the Bureau of Prisons' administrative remedy forms from staff. Exh. 1, ¶ 6.

8. The subject matter of the request and supporting details are completed by the inmate. Id.

9. Ramos had access to at least nineteen administrative remedy forms after the date of his thumb injury, however, he

chose to submit those requests concerning issues other than his thumb injury and subsequent medical care. Id.

**Facts Regarding Exhaustion of the FTCA Claim**

10. On March 15, 1999, nearly two years after the alleged incident which injured his right thumb, Ramos filed an administrative tort claim alleging that staff at FCI Allenwood fractured his right hand on March 25, 1997, and that staff further failed to provide adequate medical treatment for his right hand and delayed needed surgery until January 1999. Exh. 1, pp. 16-19.

11. The administrative tort claim, seeking compensatory damages of \$5 million, was denied by the Bureau of Prisons on January 7, 2000. Id. at p. 18.

Respectfully submitted,

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United States Attorney

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Dated: July 15, 2003

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

MANUEL RAMOS,	:	
Plaintiff	:	
	:	
v.	:	Civil No. 1:CV-00-1957
	:	(Jones, J.)
MARGARET HARDEN, Warden,	:	(Smyser, M.J.)
et al.,	:	
Defendants	:	ELECTRONICALLY FILED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That on July 15, 2003, she served a copy of the attached

STATEMENT OF FACTS

by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:

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s/ Michele E. Lincalis  
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